

DORSEY & WHITNEY LLP  
J. Michael Keyes (SBN 262281)  
*keyes.mike@dorsey.com*  
Connor J. Hansen (*pro hac vice*)  
*hansen.connor@dorsey.com*  
Dylan J. Harlow (*pro hac vice*)  
*harlow.dylan@dorsey.com*  
701 Fifth Avenue, Suite 6100  
Seattle, WA 98104  
Telephone: 206.903.8800  
Facsimile: 206.903.8820

DORSEY & WHITNEY LLP  
Kent J. Schmidt (SBN 195969)  
*schmidt.kent@dorsey.com*  
600 Anton Boulevard, Suite 200  
Costa Mesa, CA 92626  
Telephone: 714.800.1400  
Facsimile: 714.800.1499

*Attorneys for Defendant TikTok, Inc.*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL GRECCO  
PRODUCTIONS INC.,

*Plaintiff,*

v.

TIKTOK, INC.,

*Defendant.*

Case No. 2:24-CV-04837-FLA-MAR

**DEFENDANT'S NOTICE OF  
MOTION AND MOTION FOR  
SUMMARY JUDGMENT OR  
PARTIAL SUMMARY JUDGMENT**

Hon. Fernando L. Aenlle-Rocha

Date: September 26, 2025

Time: 1:30 pm

Courtroom: 6B

Filed concurrently with:

- (1) Memorandum in Support of Motion for Summary Judgment;
- (2) Declaration of Jemili Boutros;
- (3) Declaration of J. Michael Keyes;
- (4) Defendant's Statement of Uncontroverted Facts; and
- (5) [Proposed] Order

1 PLEASE TAKE NOTICE that on September 26, 2025 at 1:30 p.m., or as soon  
2 thereafter as the matter may be heard, Defendant TikTok, Inc. (“TTI” or  
3 “Defendant”) will and hereby does move this Court, pursuant to Federal Rule of Civil  
4 Procedure 56, the Court’s Standing Civil Order, and Local Rule 56, for summary  
5 judgment or partial summary judgment. The hearing will take place before the  
6 Honorable Fernando L. Aenlle-Rocha in Courtroom 6B, U.S. Courthouse, 350 West  
7 First Street, Los Angeles, California 90012.

8 Defendant’s Motion for Summary Judgment or Partial Summary Judgment is  
9 based on this Notice of Motion and the concurrently filed Memorandum of Points  
10 and Authorities; Declarations of Jemili Boutros and J. Michael Keyes; Exhibits 1-15  
11 to the Declarations; Defendant’s Statement of Uncontroverted Facts; the pleadings  
12 and papers on file in this action; and any further evidence or argument of counsel that  
13 the Court may receive at or before the hearing.

14 Defendant moves for summary judgment or partial summary judgment on  
15 Plaintiff’s claims for contributory and vicarious copyright infringement and on the  
16 damages that Plaintiff seeks. Summary judgment is appropriate on these issues for  
17 the following reasons.

18 *First*, Plaintiff admittedly did not consider fair use before sending copyright  
19 takedown notices to TTI. The Ninth Circuit is clear that copyright owners must  
20 consider fair use and form a good faith belief that material is infringing before  
21 sending takedown notices and Plaintiff’s failure to do so renders Plaintiff’s takedown  
22 notices ineffective. Accordingly, the ineffective takedown notices fail to put  
23 Defendant on notice of infringement and Plaintiff’s contributory and vicarious  
24 copyright infringement claims fail.

25 *Second*, TTI did not receive a direct financial benefit from the alleged acts of  
26 infringement, all of which are uses of Plaintiff’s photographs in content created and  
27 posted to TikTok by third-party TikTok users. Plaintiff has no evidence of an  
28

1 essential element of its vicarious copyright infringement claim and that claim must  
2 be dismissed.

3 *Third*, Plaintiff cannot recover Defendant's profits or Plaintiff's actual  
4 damages. TTI did not derive any revenue or profits from the user-generated content  
5 at issue and there are simply no profits for Plaintiff to recover. Similarly, Plaintiff  
6 has failed to produce objective evidence relating to the market value of its  
7 photographs and any actual damages it seeks are entirely speculative.

8 **Statement Regarding Conference of Counsel Under Local Rule 7-3**

9 This motion is made following the conference of counsel pursuant to Local  
10 Rule 7-3, which took place via video conference on August 15, 2025. Keyes Decl.  
11 ¶ 16. The parties were unable to resolve their disputes as to the issues addressed in  
12 this motion. *Id.* The parties also discussed Plaintiff's forthcoming motion for  
13 summary judgment and the parties believe that Defendant's and Plaintiff's motions  
14 are not cross-motions on the same issues.

1 Dated: August 22, 2025

DORSEY & WHITNEY LLP

2  
3 By: /s/ J. Michael Keyes  
4 J. Michael Keyes (SBN 262281)  
5 *keyes.mike@dorsey.com*  
6 Connor J. Hansen (*pro hac vice*)  
7 *hansen.connor@dorsey.com*  
8 Dylan J. Harlow (*pro hac vice*)  
9 *harlow.dylan@dorsey.com*  
10 Columbia Center  
11 701 Fifth Avenue, Suite 6100  
12 Seattle, WA  
13 Telephone: 206.903.8800  
14 Facsimile: 206.903.8820

15  
16 DORSEY & WHITNEY LLP  
17 Kent J. Schmidt (SBN 195969)  
18 *schmidt.kent@dorsey.com*  
19 600 Anton Boulevard, Suite 200  
20 Costa Mesa, CA 92626  
21 Telephone: 714.800.1400  
22 Facsimile: 714.800.1499

23 *Attorneys for Defendant TikTok, Inc.*  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2025, a true and correct copy of the foregoing was filed electronically using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record. Any counsel of record who has not consented to electronic service through the Court's CM/ECF system will be served by electronic mail.

/s/ J. Michael Keyes  
J. Michael Keyes, SBN 262281